

## Message Text

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PAGE 01 SANTIA 02366 232243Z  
ACTION ARA-10

INFO OCT-01 ISO-00 OPIC-03 L-03 TRSE-00 CIAE-00 INR-07  
NSAE-00 OMB-01 AID-05 COME-00 EB-08 XMB-02 SP-02  
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R 232100Z MAR 77  
FM AMEMBASSY SANTIAGO  
TO SECSTATE WASHDC 4002  
INFO AMEMBASSY BRASILIA  
AMEMBASSY BUENOS AIRES  
AMEMBASSY CARACAS  
AMEMBASSY LA PAZ  
AMEMBASSY LIMA  
AMEMBASSY QUITO  
AMEMBASSY BOGOTA

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EO 11652: NA  
TAGS: EGEN, EINV, CI  
SUBJ: NEW INVESTMENT CODE

1. OFFICIAL GAZETTE OF MARCH 18 CONTAINED TEXT OF LONG  
AWAITED DECREE LAW ON FOREIGN INVESTMENT. NEW LAW (DL 1748)  
IS MUCH SIMPLER, MORE SPECIFIC REGARDING TAX TREATMENT, RE-  
PATRIATION OF PROFITS, ETC. AND ALLOWS MUCH GREATER FREEDOM  
TO FOREIGN INVESTOR THAN ITS PREDECESSOR, DL 600 OF JULY 11,  
1974.

2. DL 1748 IS BASED ON PRINCIPLE OF NATIONAL TREATMENT  
FOR FOREIGN INVESTMENT IN ALL BUT A FEW EXCEPTIONAL CASES.  
PROFIT REMITTANCE HAS NO LIMIT; NO BUY-OUT PROVISIONS EXIST  
NOR IS THERE ANY LIMIT TO THE TERM OF FOREIGN INVESTMENT MAY  
STAY IN CHILE. HOWEVER, DL 1748 DOES NOT ALTER THE PROVISION  
OF DL 600 BY WHICH THE CHILEAN FOREIGN INVESTMENT  
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PAGE 02 SANTIA 02366 232243Z

COMMITTEE HAD TO NEGOTIATE A SEPARATE CONTRACT FOR EACH  
FOREIGN INVESTMENT APPLICATION.

3. NEW LAW LIMITS ROLE OF FOREIGN INVESTMENT COMMITTEE  
TO EXAMINING AND PASSING ON INVESTMENTS OF \$ 5 MILLION AND  
HIGHER. INVESTMENTS UNDER THIS FIGURE MAY BE APPROVED BY  
THE EXECUTIVE SECRETARY OF THE COMMITTEE UNLESS THEY ARE IN

"PUBLIC SERVICE" SECTOR, E.G. TRANSPORTATION, PUBLIC UTILITIES, COMMUNICATIONS AND DEFENSE. MEMBERS OF THE COMMITTEE ARE ALL GOC MINISTERS: OF ECONOMY (PRESIDENT), FINANCE, FOREIGN AFFAIRS AND PLANNING AND ONE AD HOC, DEPENDING ON NATURE OF INVESTMENT. THE COMMITTEE UNDER DL 600 INCLUDED THE SAME MINISTERS PLUS THE PRESIDENTS OF THE CONFEDERATION OF COMMERCE & INDUSTRY AND THE HEAD OF CORFO.

4. IT IS NOT CLEAR WHETHER NEW LAW'S SIMPLICITY AND PRECISION WILL AVOID PROTRACTED DELAYS IN ESTABLISHING MAJOR FOREIGN INVESTMENTS. HOWEVER, THE LAW DOES APPEAR TO EASE THE WAY FOR AVOIDANCE OF BUREAUCRATIC DELAYS IN THE CASE OF SMALLER INVESTMENTS.

5. EMBASSY'S ECONOMIC COUNSELOR AND COMMERCIAL ATTACHE MET MARCH 18 - DATE OF PUBLICATION OF DL 1748 - WITH INVESTMENT COMMITTEE'S EXECUTIVE SECRETARY, JUAN RAMON SAMANIEGO, ALONG WITH SEVERAL LAWYERS AND INDUSTRIALISTS SPECIALIZING IN QUESTIONS OF FOREIGN INVESTMENT. SAMANIEGO EXPLAINED THAT THE NEW LAW WOULD BE ADMINISTERED SO AS TO AVOID BUREAUCRATIC DELAYS AND THAT IT WAS SIGNIFICANT THAT THE COMMITTEE WAS MOVING TO THE MINISTRY OF ECONOMY, OUT OF THE CORFO BUILDING WHERE IT WAS STILL EXPOSED TO REMNANTS OF PAST, RESTRICTIVE INFLUENCES. HE SAID THE COMMITTEE STAFF WOULD SPEND MUCH MORE TIME ON PUBLIC RELATIONS, LESS ON TECHNICAL QUESTIONS THAN IN THE PAST.

6. SAMANIEGO ALSO ANSWERED MANUEL VALDES, PRESIDENT OF THE CONFEDERATION OF COMMERCE AND INDUSTRY, WHO WAS PRESENT AT THE LUNCH AND COMPLAINED BITTERLY (AND IN THE PRESS LIMITED OFFICIAL USE

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PAGE 03 SANTIA 02366 232243Z

AND RADIO) ABOUT PRIVATE ENTERPRISE NOT HAVING A REPRESENTATIVE ON THE COMMITTEE. SAMANIEGO DEFENDED THE DECISION BY SAYING THE COMMITTEE FOR NOW ON WOULD HAVE VERY NARROW RESPONSIBILITIES REGARDING FOREIGN INVESTMENT AND THAT PROTECTING ALREADY-ESTABLISHED INDUSTRY WAS OUTSIDE ITS PURVIEW.

7. WITH THE PUBLICATION OF A NEW CHILEAN INVESTMENT LAW IT IS PERHAPS USEFUL TO REVIEW THE FOUR IMPEDIMENTS TO FOREIGN INVESTMENT WHICH WERE CITED BY GOC AND PRIVATE ENTERPRISE SPOKESMEN A YEAR AGO:

A. INFLATION. IF NOT YET WITHIN ACCEPTABLE LIMITS THE TREND OVER THE PAST TWO YEARS IS DOWN AND GETTING LOWER. BESIDES, MOST FOREIGN INVESTORS KNOW HOW TO INDEX OR KEEP ACCOUNTS IN DOLLARS.

B. CHILE'S REPRESSIVE HUMAN RIGHTS REPUTATION. SOMEWHAT IMPROVED, WE BELIEVE, IF STILL FAR FROM IDEAL. IN ADDITION, CHILE IS NOW ONLY ONE OF

SEVERAL IN THE SOUTHERN CONE DRAWING CRITICISM, NOT LARGELY ALONE  
AS IT WAS A YEAR AGO.

C. THE ANDEAN PACT. CHILE LEFT IT ON OCTOBER 29, 1976.

D. BUREAUCRATIC RED TAPE. THIS IS A EUPHEMISM MEANING, AMONG  
OTHER THINGS, PROTECTION OF SPECIAL INTERESTS; EXISTING INDUSTRY  
(E.G. CODELCO AND ENAP); CHILEAN LAW FIRMS' ABILITY TO BLOC COM-  
PETING INVESTMENT IN ORDER TO PROTECT THEIR FOREIGN OR DOMESTIC  
CLIENTS' PROJECTS; INGRAINED CHILEAN PREJUDICE AND SUSPICION RE  
FOREIGN INVESTMENT; AND BUREAUCRATIC LETHARGY. THE NEW LAW APPEARS  
TO BE INTENDED AS A MEANS OF CUTTING THE RED TAPE, BUT ONLY  
TIME WILL TELL HOW SUCCESSFUL IT WILL BE.

8. IN THE NEARLY THREE YEARS UNDER DL 600 CHILE ATTRACTED A TOTAL  
OF \$ 500 MILLION IN APPROVED INVESTMENTS, ONLY \$ 100 MILLION OF  
WHICH HAS ACTUALLY ENTERED THE COUNTRY. THERE IS NO SINGLE INVEST-  
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PAGE 04 SANTIA 02366 232243Z

MENT OF MAJOR SIZE. THE NEW INVESTMENT LAW DOES NOT BY ITSELF  
CREATE AN IMPROVED CLIMATE FOR FOREIGN INVESTMENT. HOWEVER, IF THE  
GOC DISPLAYS A WILLINGNESS TO OFFER INCENTIVES TO POTENTIAL INVE-  
STORS IN INTERPRETING THE NEW LAW THE WAY WOULD BE CLEAR FOR APPROVAL  
OF SEVERAL PENDING MINING INVESTMENTS WHICH WOULD EASILY AND QUICKLY  
AT LEAST DOUBLE THE AMOUNT OF INVESTMENTS THUS FAR APPROVED.  
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## Message Attributes

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